

**ASSEMBLY BILL**

**No. 1565**

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**Introduced by Assembly Member Benoit**

February 21, 2003

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An act to amend Section 296 of the Penal Code, relating to forensic identification.

LEGISLATIVE COUNSEL'S DIGEST

AB 1565, as introduced, Benoit. Forensic identification.

Existing law requires various criminal offenders, persons found not guilty by reason of insanity, and registered sex offenders to provide DNA and print samples to the Department of Justice for inclusion in the DNA and Forensic Identification Data Base.

This bill would require any person convicted of any offense, or attempt to commit any offense, that makes him or her a sex offender or any offense that imposes upon a person the duty to register in California as a sex offender, or any person who is found not guilty by reason of insanity of any of those offenses, regardless of sentence imposed or disposition rendered, to provide 2 specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand for law enforcement identification analysis. This bill would require those who are committed to any institution under the jurisdiction of the Department of the Youth Authority, who are granted probation, or who are or were committed to a state hospital as a mentally disordered sex offender, and who committed, or attempted to commit, any offense that requires them to register as a sex offender to provide those specified specimens. By increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 296 of the Penal Code is amended to  
2 read:
- 3 296. (a) (1) Any person who is convicted of any of the  
4 following crimes, or is found not guilty by reason of insanity of  
5 any of the following crimes, shall, regardless of sentence imposed  
6 or disposition rendered, be required to provide two specimens of  
7 blood, a saliva sample, right thumbprints, and a full palm print  
8 impression of each hand for law enforcement identification  
9 analysis:
- 10 (A) Any offense or attempt to commit any ~~felony~~ offense  
11 described in Section 290, or any ~~felony~~ offense that imposes upon  
12 a person the duty to register in California as a sex offender under  
13 Section 290.
- 14 (B) Murder in violation of Section 187, 190, 190.05, or any  
15 degree of murder as set forth in Chapter 1 (commencing with  
16 Section 187) of Title 8 of Part 1 of the Penal Code, or any attempt  
17 to commit murder.
- 18 (C) Voluntary manslaughter in violation of Section 192 or an  
19 attempt to commit voluntary manslaughter.
- 20 (D) Felony spousal abuse in violation of Section 273.5.
- 21 (E) Aggravated sexual assault of a child in violation of Section  
22 269.



1 (F) A felony offense of assault or battery in violation of Section  
2 217.1, 220, 241.1, 243, 243.1, 243.3, 243.4, 243.7, 244, 245,  
3 245.2, 245.3, or 245.5.

4 (G) Kidnapping in violation of subdivisions (a) to (e),  
5 inclusive, of Section 207, or Section 208, 209, 209.5, or 210, or an  
6 attempt to commit any of these offenses.

7 (H) Mayhem in violation of Section 203 or aggravated  
8 mayhem in violation of Section 205, or an attempt to commit either  
9 of these offenses.

10 (I) Torture in violation of Section 206 or an attempt to commit  
11 torture.

12 (J) Burglary as defined in subdivision (a) of Section 460 or an  
13 attempt to commit this offense.

14 (K) Robbery as defined in subdivision (a) or (b) of Section  
15 212.5 or an attempt to commit either of these offenses.

16 (L) Arson in violation of subdivision (a) or (b) of Section 451  
17 or an attempt to commit either of these offenses.

18 (M) Carjacking in violation of Section 215 or an attempt to  
19 commit this offense.

20 (N) Terrorist activity in violation of Section 11418 or 11419, or  
21 a felony violation of Section 11418.5, or an attempt to commit any  
22 of these offenses.

23 (2) Any person who is required to register under Section 290  
24 because of the commission of, or the attempt to commit, ~~a felony~~  
25 *any* offense specified in Section 290, and who is committed to any  
26 institution under the jurisdiction of the Department of the Youth  
27 Authority where he or she was confined, or is granted probation,  
28 or is or was committed to a state hospital as a mentally disordered  
29 sex offender under Article 1 (commencing with Section 6300) of  
30 Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions  
31 Code, shall be required to provide two specimens of blood, a saliva  
32 sample, right thumbprints, and a full palm print impression of each  
33 hand to that institution or, in the case of a person granted probation,  
34 to a person and at a location within the county designated for  
35 testing.

36 (b) The provisions of this chapter and its requirements for  
37 submission to testing as soon as administratively practicable to  
38 provide specimens, samples, and print impressions as described in  
39 subdivision (a) shall apply regardless of placement or confinement  
40 in any mental hospital or other public or private treatment facility,

1 and shall include, but not be limited to, the following persons,  
2 including juveniles:

3 (1) Any person committed to a state hospital or other treatment  
4 facility as a mentally disordered sex offender under Article 1  
5 (commencing with Section 6300) of Chapter 2 of Part 2 of  
6 Division 6 of the Welfare and Institutions Code.

7 (2) Any person who has a severe mental disorder as set forth  
8 within the provisions of Article 4 (commencing with Section  
9 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

10 (3) Any person found to be a sexually violent predator pursuant  
11 to Article 4 (commencing with Section 6600) of Chapter 2 of Part  
12 2 of Division 6 of the Welfare and Institutions Code.

13 (c) The provisions of this chapter are mandatory and apply  
14 whether or not the court advises a person, including any juvenile,  
15 that he or she must provide the databank and database specimens,  
16 samples, and print impressions as a condition of probation, parole,  
17 or any plea of guilty, no contest, or not guilty by reason of insanity,  
18 to any of the offenses described in subdivision (a).

19 (d) At sentencing or disposition, the prosecuting attorney shall  
20 verify in writing that the requisite samples are required by law, and  
21 that they have been taken, or are scheduled to be taken before the  
22 offender is released on probation, or other scheduled release.  
23 However, a failure by the prosecuting attorney or any other law  
24 enforcement agency to verify *the* sample requirement or collection  
25 shall not relieve a person of the requirement to provide samples.

26 (e) The abstract of judgment issued by the court shall indicate  
27 that the court has ordered the person to comply with the  
28 requirements of this chapter and that the person shall be included  
29 in the state's DNA and Forensic Identification Data Base and Data  
30 Bank program and be subject to this chapter. However, failure by  
31 the court to enter these facts in the abstract of judgment shall not  
32 invalidate a plea, conviction, or disposition, or otherwise relieve  
33 a person from the requirements of this chapter.

34 SEC. 2. Notwithstanding Section 17610 of the Government  
35 Code, if the Commission on State Mandates determines that this  
36 act contains costs mandated by the state, reimbursement to local  
37 agencies and school districts for those costs shall be made pursuant  
38 to Part 7 (commencing with Section 17500) of Division 4 of Title  
39 2 of the Government Code. If the statewide cost of the claim for  
40 reimbursement does not exceed one million dollars (\$1,000,000),



- 1 reimbursement shall be made from the State Mandates Claims
- 2 Fund.

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